IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	Atty. Docket
NORBERT STAMPFL	AT 030026
	Confirmation No. 7950
Serial No. 10/554,230	Group Art Unit: 2165
Filed: OCTOBER 25, 2005	Examiner: HOANG, SON T.

Title: METHOD AND ARRANGEMENT FOR AUTOMATICALLY SEARCHING INFORMATION SOURCES ACCESSIBLE THROUGH A DATA NETWORK

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APPEAL BRIEF

Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows, having filed a Notice of Appeal on February 3, 2009:

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-20 are pending in this application. Claims 1-20 are rejected in the Final Office Action mailed in November 4, 2008. This rejection was upheld, in the Advisory Action that was mailed on January 12, 2009. Claims 1-20 are the subject of this appeal.

STATUS OF AMENDMENTS

Appellant filed on January 5, 2009 an after final amendment in response to a Final Office Action mailed November 4, 2008. The after final amendment did not include any amendments. In an Advisory Action mailed on January 12, 2009, it is indicated that the after final amendment filed on January 5, 2009 does not place the application in condition for allowance. This Appeal Brief is in response to the Final Office Action mailed November 4, 2008, that finally rejected claims 1-20, which remain finally rejected in the Advisory Action mailed on January 12, 2009.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as recited in independent claim 1, is directed to a method for automatically searching at least one information source 2, 3 accessible through a data network 6 for contents 4A, 4B, 4C or 4D, 4E, 4F that are supplied by this information source 2, 3 and satisfy at least one predefined criterion, as shown in FIG 1 and described on page 5, line 28 to page 6, line 3. The contents 4A, 4B, 4C or 4D, 4E, 4F comprise useful information N1 and metadata Z1 that characterizes the useful information N1, the information source 2, 3 changing the content 4A, 4B, 4C or 4D, 4E, 4F supplied by it under the control of control signals.

As shown in FIG 2 and described on page 8, lines 1-16, the method comprises selecting 102 an information source 2, 3, and receiving 103 at least a part of the content supplied by the selected information source 2, 3, which part contains the metadata Z1.

As shown in FIG 2 and described on page 8, lines 17-27, the

method further comprises analyzing 104 the metadata Z1 in respect of the predefined criteria and, if the criteria are satisfied, processing 105 the useful information received; and for as long as the at least one predefined criterion is not satisfied, generating a control signal CTRL and transmitting it to the information source to change the content supplied by the information source, and again receiving at least a part of the content supplied by the information source, which part contains the metadata, and analyzing the metadata in respect of the predefined criteria.

As shown in FIG 2 and described on page 5, lines 6-12 and page 6, lines 23-30, the method further comprises storing an arrived content as stored content while an associated metadata associated with the arrived content is still being analyzed, or while awaiting arrival of the associated metadata, and discarding the stored content if the associated metadata indicates that the useful information of the stored content does not satisfy the predefined criteria.

The present invention, for example, as recited in independent claim 7, is directed to a search arrangement 1 for automatically

searching at least one information source 2, 3 accessible through a data network 6 for contents 4A, 4B, 4C or 4D, 4E, 4F that are supplied by this information source 2, 3 and satisfy at least one predefined criterion, as shown in FIG 1 and described on page 5, line 28 to page 6, line 3. The contents 4A, 4B, 4C or 4D, 4E, 4F comprise useful information N1 and metadata Z1 that characterizes the useful information N1, the information source 2, 3 changing the content 4A, 4B, 4C or 4D, 4E, 4F supplied by it under the control of a control signal CTRL.

As shown in FIG 1 and described on page 5, line 28 to page 8, line 27, the search arrangement comprises receiving means or receiver 5 that is arranged to select a connection to an information source 2, 3 and to receive useful information N1 and metadata Z1 from the selected information source 2, 3; analyzing means or analyzer 7 that is arranged to analyze the metadata Z1 received in respect of the at least one predefined criterion and, if the criterion is not satisfied, to generate and emit an activating signal NE that represents the non-satisfaction; processing means or processor 9 that is arranged to process the

useful information received; control-signal generating means or generator 14 that is arranged to generate the control signal CTRL and transmit it to the information source to change the contents supplied by the information source, the control-signal generating means being so arranged that they can be activated by the analyzing means with the help of the activating signal; and a memory 8, 15 for storing an arrived content as stored content while an associated metadata associated with the arrived content is still being analyzed, or while awaiting arrival of the associated metadata. The stored content is discarded if the associated metadata indicates that the useful information of the stored content does not satisfy the predefined criteria, as described on page 5, lines 6-12.

The present invention, for example, as recited in independent claim 19, is directed to a method including receiving both audio data N1 and corresponding metadata Z1 indicative of the audio data from an information source 2, 3, wherein the information source streams the audio data and the metadata, as shown in FIGs 1-2 and described on page 5, line 28 to page 6, line 3, and page 8, lines

1-16. A shown in FIG 2 and described on page 6, lines 23 to page 8, lines 27, the method further includes determining 104 whether the metadata Z1 matches user specified criteria; reproducing 105 the audio data when the metadata Z1 matches the user specified criteria; transmitting a control signal CTRL to the information source 2, 3 when the metadata Z1 does not match the user specified criteria, where the information source streams second audio data and second corresponding metadata indicative of the second audio data in response to the control signal, and where the second audio data is different than the first audio data.

A shown in FIG 2 and described on page 5, lines 6-12 and page 6, lines 23-30, the method further includes storing an arrived content as stored content while an associated metadata associated with the arrived content is still being analyzed, or while awaiting arrival of the associated metadata; and discarding the stored content if the associated metadata indicates that useful information of the stored content does not satisfy the user specified criteria.

The present invention, for example, as recited in claim 2, and

described on page 7, lines 15-19 and page 9, lines 1-10, recites that the generating and transmitting acts are carried out for as long as the at least one predefined criterion or an abort criterion is not satisfied, the abort criterion being defined as repeated reception of the same metadata from the same information source.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1, 6-7 and 12-20 of U.S. Patent Application Serial No. 10/554,230 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 7,321,923 (Rosenberg) in view of U.S. Patent Application Publication No. 2003/0028893 (Addington).

Whether claims 2-4 and 9-10 of U.S. Patent Application Serial No. 10/554,230 are unpatentable under 35 U.S.C. §103(a) over Rosenberg in view of Addington and U.S. Patent No. 6,247,165 (Anderson).

Whether claims 5 and 11 of U.S. Patent Application Serial No. 10/554,230 are unpatentable under 35 U.S.C. §103(a) over Rosenberg in view of Addington, Anderson and U.S. Patent No. 5,777,989 (McGarvey).

Whether claim 8 of U.S. Patent Application Serial No. 10/554,230 are unpatentable under 35 U.S.C. §103(a) over Rosenberg in view of Addington and U.S. Patent Application Publication No. 2002/0003840 (Ueda).

ARGUMENT

Claims 1, 6-7 and 12-20 are said to be unpatentable over Rosenberg in view of Addington.

Appellant respectfully requests the Board to address the patentability of independent claims 1, 7 and 19, as well as dependent claim 2, and further claims 3-6, 8-18 and 20 as depending from claims 1, 7 and 19, based on the requirements of independent claims 1, 7 and 19. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellant herein specifically reserves the right to argue and address the patentability of claims 3-6, 8-18 and 20 at a later date should the separately patentable subject matter of 3-6, 8-18 and 20 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent claims 1, 7 and 19, and dependent claim 2, is not intended as a waiver of Appellant's right to argue the patentability of the further claims and claim elements at that later time.

Page 5 of the Final Office Action correctly notes that Rosenberg does not disclose or suggest discarding stored content if associated metadata indicates that the useful information of the stored content does not satisfy the predefined criteria, as recited in independent claims 1, 7 and 19. Addington is cited in an attempt to remedy the deficiencies in Rosenberg.

On pages 6-7 of the Final Office Action, it is alleged that paragraph [0034] of Addington discloses features of independent claim 1, namely:

> storing an arrived content as stored content while an associated metadata associated with the arrived content is still being analyzed, or while awaiting arrival of the associated metadata, and
> discarding the stored content if the associated metadata indicates that the useful information of the stored content does not satisfy the predefined criteria. (Illustrative emphasis provided):

It is respectfully submitted that paragraph [0034] of Addington merely discloses to package a segment from a spool 210e (where the segment is being cached) and send the segment to personal video exchange server 210c. Paragraph [0034] further discloses that the oldest content is removed (as new content is

received) if storage space on the live spool 210e is exhausted. A stored portion may be saved in the live spool 210e for a specified period of time, and will not be deleted when new content arrives.

Such description in paragraph [0034] of Addington has nothing to do with, and does not disclose or suggest, "storing an arrived content as stored content **while** an associated metadata associated with the arrived content is still being analyzed, or while awaiting arrival of the associated metadata," as recited in independent claim 1, and similarly recited in independent claims 7 and 19. (Illustrative emphasis provided) Rather, paragraph [0034] merely discloses packaging a segment form a spool 210e and sending it to a personal video exchange server 210c.

Assuming, arguendo, that Addington does disclose or suggest this feature of storing content while the metatada is still being analyzed, or while awaiting metatada arrival, it is respectfully submitted that paragraph [0034] of Addington still does not disclose or suggest "**discarding** the stored content **if** the associated metadata indicates that the useful information of the stored content does **not satisfy** the predefined criteria," as

recited in independent claim 1, and similarly recited in independent claims 7 and 19. (Illustrative emphasis provided) Rather, paragraph [0034] merely discloses to **delete oldest** content, and save a content portion for a specified period of time.

Page 3, first full paragraph, last sentence, of the Final Office Action, in discussing paragraph [0034] of Addington, recites that "[w]hen the storage age predefined by the metadata is expired, the saved portion of the broadcasted segment will be deleted." It appears that the age of the stored data is being analogized to the 'predefined/specified criteria,' as recited in independent claims 1, 7 and 19.

Although, the age of the stored data is certainly a criteria based on which stored data is deleted in Addington, this age criteria is **not the very same criteria used for searching or analyzing any content or data**. The Addington age criteria for deleting content has nothing to do with the **search** criteria used to search for a desired content.

In stark contrast, the present invention as recited in independent claim 1, and similarly recited in independent claims 7

and 19, amongst other patentable elements recites (illustrative emphasis provided):

> A method for automatically searching at least one information source accessible through a data network for contents that are supplied by this information source and satisfy at least one **predefined criterion**,... the method comprising the acts of:
> selecting an information source,
> receiving at least a part of the content supplied by the information source selected, which part contains the metadata,
> analyzing the metadata in respect of the **predefined criteria** and,
> if the **criteria** are satisfied, processing the useful information received,...
> discarding the stored content if the associated metadata indicates that the useful information of the stored content does not satisfy **the** predefined criteria.

Discarding the stored content if related useful information does not satisfy the **VERY SAME** predefined criteria used in the searching for the processing the useful information is nowhere disclosed or suggested in Rosenberg, Addington, and combination thereof. Rather, Addington merely discloses to discard data based on storage age, where this storage age has nothing to do with searching or analyzing such data. Rosenberg, Anderson, McGarvey and Ueda are cited to allegedly show other features and do not

remedy the deficiencies in Addington.

Accordingly, it is respectfully submitted that independent claims 1, 7 and 19 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 6, 12-18 and 20 should also be allowed at least based on their dependence from independent claims 1, 7 and 19, as well as their individually patentable elements.

Claims 2-4 and 9-10 are said to be unpatentable over Rosenberg in view of Addington and Anderson.

It is respectfully submitted that claims 2-4 and 9-10 should be allowed at least based on their dependence from independent claims 1 and 7, as well as for the separately patentable elements contained in claims 2-4 and 9-10.

For example, claim 2 specifically recites that "the generating and transmitting acts are carried out for as long as the at least one predefined criterion or an abort criterion is not satisfied, the **abort criterion being defined as repeated reception of the same metadata from the same information source**". (Illustrative emphasis

added) As correctly noted in the last paragraph on page 15 of the Final Office Action, these features are not disclosed or suggested in Rosenberg and Addington. Page 16 of the Final Office Action alleges that column 4, lines 32-39 of Anderson discloses these features of claim 2.

Column 4, lines 32-39 of Anderson specifically recite that a:

> determination is made at step 212 whether an information source, a node on the network, satisfies the search criterion by containing the desired information, also know as a "hit". If no information source is found, the network continues to be searched **until a predetermined condition is met**, for example, a **time-out** period has passed or until a site containing the desired information is found. (Emphasis added)

Thus, Anderson merely discloses to continue the search for a source until a source is found or a time-out period has passed. At best, Anderson suggests an abort condition being the passage of a time-out period, after which the search is discontinued. It is respectfully submitted that an abort condition being the passage of a time-out period has nothing to do, and does not disclose or suggest, an "**abort criterion being defined as repeated reception of the same metadata from the same information source**", as recited in

claim 2.

Claims 5 and 11 are said to be unpatentable over Rosenberg in view of Addington, Anderson and McGarvey.

It is respectfully submitted that claims 5 and 11 should be allowed at least based on their dependence from independent claims 1 and 7.

Claim 8 is said to be unpatentable over Rosenberg in view of Addington and Ueda.

It is respectfully submitted that claim 8 should be allowed at least based on their dependence from independent claim 7

In addition, Appellant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of

the Examiner's statements are conceded.

CONCLUSION

Claims 1-20 are patentable over Rosenberg, Addington, Anderson, McGarvey and Ueda.

Thus, the Examiner's rejections of claims 1-20 should be reversed.

Respectfully submitted,

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CLAIMS APPENDIX

1.(Previously Presented) A method for automatically searching at least one information source accessible through a data network for contents that are supplied by this information source and satisfy at least one predefined criterion, which contents comprise useful information and metadata that characterizes the useful information, the information source changing the content supplied by it under the control of control signals, the method comprising the acts of:

selecting an information source,

receiving at least a part of the content supplied by the information source selected, which part contains the metadata,

analyzing the metadata in respect of the predefined criteria and,

if the criteria are satisfied, processing the useful information received,

for as long as the at least one predefined criterion is not satisfied, generating a control signal and transmitting it to the

information source to change the content supplied by the information source, and again receiving at least a part of the content supplied by the information source, which part contains the metadata, and analyzing the metadata in respect of the predefined criteria,

storing an arrived content as stored content while an associated metadata associated with the arrived content is still being analyzed, or while awaiting arrival of the associated metadata, and

discarding the stored content if the associated metadata indicates that the useful information of the stored content does not satisfy the predefined criteria.

2.(Previously Presented) The method as claimed in claim 1, wherein the generating and transmitting acts are carried out for as long as the at least one predefined criterion or an abort criterion is not satisfied, the abort criterion being defined as repeated reception of the same metadata from the same information source.

3.(Previously Presented) The method as claimed in claim 1, wherein the generating and transmitting acts are carried out for as long as the at least one predefined criterion or an abort criterion is not satisfied, the abort criterion being defined as failure to receive metadata from the information source selected at the time within a predefined period of time.

4.(Previously Presented) The method as claimed in claim 2, further comprising the act of selecting another information source if the abort criterion is met.

5.(Previously Presented) The method as claimed in claim 4, further comprising the act of, after the last available information source has been selected and an abort criterion met, discontinuing or suspending the searching for a predefined period of time, and then continuing with selection of an available information source.

6.(Previously Presented) The method as claimed in claim 1, the processing act includes recording of the useful information on

a data carrier.

7. (Previously Presented) A search arrangement for automatically searching at least one information source accessible through a data network for contents that are supplied by this information source and satisfy at least one predefined criterion, which contents comprise useful information, and metadata that characterizes the useful information, the information source changing the content supplied by it under the control of a control signal, which search arrangement comprising:

receiving means that are arranged to select a connection to an information source and to receive useful information and metadata from the information source selected;

analyzing means that are arranged to analyze the metadata received in respect of the at least one predefined criterion and, if the criterion is not satisfied, to generate and emit an activating signal that represents the non-satisfaction;

processing means that are arranged to process the useful information received; and

control-signal generating means that are arranged to generate the control signal and transmit it to the information source to change the contents supplied by the information source, the control-signal generating means being so arranged that they can be activated by the analyzing means with the help of the activating signal, and

a memory for storing an arrived content as stored content while an associated metadata associated with the arrived content is still being analyzed, or while awaiting arrival of the associated metadata, and

wherein the stored content is discarded if the associated metadata indicates that the useful information of the stored content does not satisfy the predefined criteria.

8.(Previously Presented) The search arrangement as claimed in claim 7, wherein the analyzing means are arranged to take into account an abort criterion, which is defined as repeated reception of the same metadata from the same information source and in that, if this abort criterion is met, the analyzing means are arranged to

terminate the analysis of the metadata received from the selected information source.

9.(Previously Presented) The search arrangement as claimed in claim 7, wherein the analyzing means are arranged to take into account an abort criterion which is defined as failure to receive metadata from the information source selected at the time within a predefined period of time, and wherein, if this abort criterion is met, the analyzing means are arranged to terminate their wait for the metadata that is not received from the selected information source during the said period.

10.(Previously Presented) The search arrangement as claimed in claim 8, wherein the analyzing means are arranged to generate an information-source selecting signal and emit it to the receiving means if the abort criterion is met, and wherein, when the information-source selecting signal is present, the receiving means are arranged to select an information source other than the information source that was selected when the abort criterion was

met.

11.(Previously Presented) The search arrangement as claimed in claim 10, wherein the search arrangement is arranged, after the last available information source has been selected and the abort criterion met, to discontinue its search of the information sources accessible through the data network, or to suspend its search for an available information source for a predefined period of time and then to continue it again.

12.(Previously Presented) The search arrangement as claimed in claim 7, further comprising input means for input of criteria for the contents and/or for the input of information-source addresses.

13.(Previously Presented) The search arrangement as claimed in claim 7, wherein the processing means are connected to display means and/or audio reproduction means and/or means for recording useful information.

14.(Previously Presented) An arrangement for processing useful information having a search arrangement as claimed in claim 7.

15.(Previously Presented) The method of claim 1, wherein the information source streams the received content.

16.(Previously Presented) The method of claim 1, wherein the information source includes a plurality of contents that are organized in the form of playlists.

17.(Previously Presented) The search arrangement of claim 7, wherein the information source includes an Internet music server.

18.(Previously Presented) The search arrangement of claim 7, wherein the receiving means receives multiple different streaming content that is concurrently supplied by the information source.

19.(Previously Presented) A method, including:

receiving both audio data and corresponding metadata indicative of the audio data from an information source, wherein the information source streams the audio data and the metadata;

determining whether the metadata matches user specified criteria;

reproducing the audio data when the metadata matches the user specified criteria;

transmitting a control signal to the information source when the metadata does not match the user specified criteria, wherein the information source streams second audio data and second corresponding metadata indicative of the second audio data in response to the control signal, wherein the second audio data is different than the first audio data;

storing an arrived content as stored content while an associated metadata associated with the arrived content is still being analyzed, or while awaiting arrival of the associated metadata; and

discarding the stored content if the associated metadata

indicates that useful information of the stored content does not satisfy the user specified criteria.

20. (Previously Presented) The method of claim 19, further including:

presenting a message when the available information sources have been searched without finding metadata that matches the user specified criteria.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None